

EXHIBIT “A”

“Deposition Of Kristine Biggs Johnson”

(cited pages only)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

KRISTINE BIGGS JOHNSON,)
PLAINTIFF,) CASE NO.
Vs.) 1:14-cv-00147-TC
DANIEL PEAY, A MORGAN COUNTY)
SHERIFF'S SERGEANT, MORGAN)
COUNTY, A POLITICAL)
SUBDIVISION; AND JOHN AND)
JANE DOES 1-10)
DEFENDANTS.)

)

Deposition of Kristine Biggs Johnson

Taken: October 14, 2015

Reported by: Linda J. Smurthwaite, RDR

Intermountain Court Reporters
Murray, UT 84107
(801) 263-1396



1 Deposition of Kristine Biggs Johnson, taken on behalf
2 of Defendant, at 215 So. State Street, Salt Lake City,
3 Utah, on October 14, 2015, commencing at 9:00 AM, before
4 LINDA J. SMURTHWAITE, Certified Shorthand Reporter,
5 Registered Professional Reporter and Notary Public in and
6 for the State of Utah, pursuant to Notice.

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3

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1 Salt Lake City, Utah, October 14, 2015, 9:00 a.m.

2 KRISTINE BIGGS JOHNSON

3 was duly sworn, was examined and

4 testified as follows:

5 BY MS. KYTE:

6 Q. Good morning.

7 A. Morning.

8 Q. Could you please state your full name and
9 spell it for the court reporter?

10 A. Kristine Nicole Johnson, K-r-i-s-t-i-n-e
11 N-i-c-o-l-e J-o-h-n-s-o-n.

12 Q. Ms. Johnson, I introduced myself earlier, but
13 my name is Julia Kyte and I'm here today as one of the
14 attorneys of record on behalf of the defendants, okay?

15 A. Okay.

16 Q. And for purposes of this deposition, earlier
17 records in 2012 indicated your last name was Biggs; is
18 that correct?

19 A. It was Biggs, yes.

20 Q. For purposes of the deposition today, it is
21 no longer Biggs; is that correct?

22 A. That is correct.

23 Q. And I'm going to refer to you as Ms. Johnson
24 throughout, okay?

25 A. Thank you.

1 Q. Is that how you found out that he was
2 involved with someone else?

3 A. Yes.

4 Q. And do you know approximately what month of
5 2011 that occurred?

6 A. It was in March.

7 Q. The records that I just handed to you are
8 relating to events dated March 22, 2011, and in the days
9 following that. These records are from after you found
10 out that information from your then husband; is that
11 correct?

12 A. Yes.

13 Q. Ms. Biggs, were you suicidal at that time?

14 A. I was heartbroken. Personally, I believe it
15 takes a great deal of courage to actually end your own
16 life. I also believe that it requires a certain amount
17 of hopelessness. I don't believe that I was suicidal,
18 but everybody kept suggesting it.

19 Q. If you turn to page, what's marked on the
20 bottom right-hand corner as MCSO 00853. And there's a
21 narrative line in the middle of the page and then where
22 it starts at the second paragraph. I'm going to read you
23 a couple of statements there, and then ask you some
24 questions, okay? It says 'Comments from dispatch read
25 Audrey received a text message from Kristine which read

1 "let me die.' Do you recall sending a text message to
2 that effect to Audreay Powers?

3 A. I do not recall, however, the phrasing is
4 'let me die.' Leave me alone. Not 'I'm going to kill
5 myself'.

6 Q. How long have you known Audreay Powers?

7 A. I would say since 2001.

8 Q. So in 2011, she had known you for
9 approximately ten years, at that time?

10 A. Yes.

11 Q. Do you think Audreay's concerns were --

12 A. Oh, I'm sorry, can I make an amend?

13 Q. Yes.

14 A. I knew her since 2000, sorry.

15 Q. So approximately 11 years --

16 A. 11 years.

17 Q. -- at the time of these events. Do you think
18 her concerns were unwarranted at the time?

19 A. I think as my friend, and her concerns and
20 how she felt, I cannot say if they were unwarranted or
21 not, they were her feelings.

22 Q. Turning to page 00859. If you look midway
23 down the page, it says -- and it starts with 'while I was
24 standing outside the mobile home.' Do you see that?

25 A. Yes.

1 Q. 'While I was standing outside the mobile
2 home, east side, I looked west through a living room
3 window and observed a shotgun lying on the sofa, soft
4 case laying on the floor beneath the sofa.' Was that
5 your shotgun?

6 A. No.

7 Q. Whose shotgun was that?

8 A. That was my ex-husband's.

9 Q. Your ex-husband wasn't home at this time,
10 correct?

11 A. No.

12 Q. Do you recall why the shotgun was laying out
13 on the sofa?

14 A. The shotgun was laying on the sofa because
15 the address that I lived at, off of Highway 50, was out
16 in the middle of nowhere. And I was not feeling secure,
17 I was not feeling safe. I was there by myself.

18 Q. Moving further down the page it says, 'while
19 on the east side of the mobile home, I observed four
20 empty bottles of Yukon Jack laying on the ground
21 scattered in the back yard. It is unknown who drank the
22 alcohol or how long those bottles had been in the
23 backyard.' Excuse me, 'these bottles have been in the
24 backyard.'

25 Do you believe you drank those bottles of alcohol?

1 A. Over a period of a year.

2 Q. There was also some discussion of the empty
3 bottles that appeared to have apple juice that were later
4 indicated to be moonshine. Do you have any knowledge of
5 moonshine being in the house?

6 A. No.

7 Q. Were you aware, during these events, that
8 police officers were trying to check on your well-being?

9 A. I did not wish to speak to anybody. I was
10 aware of the phone calls. I did not want to be texted by
11 anybody. I wished to remain by myself. And as far as
12 being aware of them being police officers, when they were
13 banging on my door, they woke me up from a sound sleep on
14 my couch, and I was terrified. And I would like to make
15 note of the fact that even though terrified, I did not
16 grab for the shotgun. I rolled off of the couch and
17 crawled across the floor down the hallway, and hid in my
18 closet with my dogs, because I was terrified.

19 Not once while they were banging on the doors or
20 the windows, did they announce that they were Mesa County
21 sheriffs.

22 Q. Looking at page 00860.

23 A. I'm looking at the time.

24 Q. Looking at the time 00 -- so on 3/22/11,
25 about 2045 hours, I responded to a call. Excuse me,

1 that's not a quote. 'The officers indicated they
2 responded to 4150 Highway 50, Mesa County, Colorado, to
3 assist Deputy Abeyta and Corporal Bridge on a possibly
4 suicidal female.'

5 And then looking down the page, it says 'at about
6 2107, I received a text message from Kristine's phone
7 number and the message read 'who is this?' So 2107 is
8 approximately 9:07 p.m., is that correct? Would you
9 agree?

10 A. Yes.

11 Q. 'Kristine and I then exchanged several text
12 messages and they are as follows.'

13 'CB', who I believe, even though it's a C, they
14 meant Kristine Biggs at the time.

15 'CB: Who is this?'

16 'HH' -- which is Corporal H Hansen -- 'sheriff's
17 office. Can I talk to you?'

18 'CB: May I talk to you in proper English?'

19 And then it goes on with a series of texts. From
20 the indication that this was the sheriff's office --

21 A. At 9:07.

22 Q. P.m.

23 A. And they came and knocked on my door at 12:05
24 a.m.

25 Q. But in regards to the 9:07, did you

1 understand that it was someone from the sheriff's office
2 that was trying to communicate with you?

3 A. At this point, I had been harassed with text
4 messages from my ex-husband's girlfriend, and as well,
5 somebody -- I don't know, I can't remember what it's
6 called exactly, but there was a thing you could do online
7 where you could text message somebody from a phone number
8 that you knew, that you recognized, but it wasn't them,
9 and I had been being harassed. So, to be skeptical of it
10 being a sheriff, yes. I can totally believe.

11 Q. Are you aware, if you turn to page 00861, the
12 police officers conclude by saying, 'after the leave me
13 alone text message, it was decided not to push the issue
14 of entering the home without her cooperation, and we left
15 the scene.' As we were leaving, I received the last text
16 message at 2149 hours, CB: Glad I could entertain you
17 tonight question? Nothing further, end of report'.

18 A. Again, I had been being harassed, severely.
19 In fact, my ex-husband's girlfriend, her most common
20 refrain when she would text me was, 'why don't you just
21 kill yourself and get it over with. It will be better
22 for all of us.'

23 Q. If you turn to page to 00867. Again, I'm
24 going to read two portions and ask you some questions.
25 It says, 'I called Audrey who told me that she had a

1 friend in Whitewater, Kristina, who lives in Whitewater,
2 who had received text messages and photos from her
3 husband showing he was sleeping in bed with another
4 female. Audrey told me that Kristina is supposed to be
5 drinking extremely heavy, and is using methamphetamines
6 and threaten that she would kill herself.'

7 Do you believe what Ms. Powers represented to the
8 police officers is incorrect or correct?

9 A. Incorrect.

10 Q. Why incorrect?

11 A. Because I've never used methamphetamines.
12 And as far as me telling her I was going to kill myself,
13 once again, 'let me die' is not 'I'm going to kill
14 myself.'

15 Q. The next paragraph it says, 'Audrey told me
16 that she'd been texting Kristina all day. Audrey said
17 Kristina sent her pictures of her vehicles telling her
18 that she could have the vehicles and everything she owns
19 once she is gone.'

20 Do you believe you did or did not send that
21 information to Ms. Powers?

22 A. I believe I did not. If I referred to me
23 being gone, it would be dying of natural causes, not
24 taking my own life.

25 Q. In a subsequent report, your ex-husband, Mr.

1 Biggs, indicates that you had kept, and it says 'her 380
2 pistol under her pillow with a round in the chamber and
3 the hammer back.' Did you own a pistol previously?

4 A. No.

5 Q. Did your husband own a 380 pistol?

6 A. He owned several pistols.

7 Q. Do you believe that he was referring to one
8 of his pistols that you kept under your pillow?

9 A. I can't answer that, because I don't know
10 what exactly he's talking about.

11 Q. The last record I just want to look at in
12 these is on 00873. And in the second paragraph it says,
13 'I called Audrey and spoke with her and gained the
14 following information.' And it's stated Audra,
15 A-u-d-r-a. For the record, I'm referring to Audrey
16 Powers. 'Audra said she had been receiving text messages
17 from Kristine, and she was worried about her. Audra said
18 the messages said things like she was really cold, hadn't
19 eaten in days, is only drinking alcohol, has a fever, and
20 no energy. Audra went on to say that Kristine called
21 herself a piece of --' and there's an expletive there --
22 'and said she was done with it, and that she would shoot
23 the police if they tried to contact her.'

24 It then goes on to say, in the second paragraph,
25 the last sentence, 'Audra also stated Kristine would

1 shoot to kill anyone who tried to contact her, most
2 specifically law enforcement.'

3 Do you recall making any threats to law enforcement
4 during your conversation or text messages with Audreay
5 Powers?

6 A. No.

7 MS. SYKES: Is there something else for her to
8 read?

9 MS. KYTE: No.

10 (Whereupon a recess was taken.)

11 MS. KYTE: If we can go back on the record. So Ms.
12 Johnson, we took a short break, and you were able to
13 obtain the address of the Petco location that you
14 currently are employed; is that correct?

15 A. Yes.

16 Q. Would you mind reading into the record what
17 that address is?

18 A. 2765 Santa Rosa Avenue, Santa Rosa,
19 California 95404.

20 Q. Were you able to find the address for Mr.
21 George Jones?

22 A. I do not have it in my phone, but it was in
23 the discovery questions or interrogatories.

24 Q. Okay. Ms. Johnson, we have taken a short
25 break, and then we were going to actually look at another

1 identified?

2 A. No.

3 Q. Okay. Given that the event at issue on
4 November 25, 2012, occurred three days after
5 Thanksgiving, which that year fell on November 22, 2012,
6 do you recall if you were with anyone or spent it in any
7 other home?

8 A. No.

9 Q. Do you recall either way?

10 A. I didn't spend Thanksgiving with anybody but
11 my dog.

12 Q. Had Mr. Jones and Mrs. Jones asked you to
13 leave, prior to you leaving?

14 A. They had, yes.

15 Q. Do you have any understanding as to why?

16 A. We had spent time talking, and I had told
17 them that what I really needed to do was to get home, and
18 they agreed.

19 Q. Do you have any distinct thing that is the
20 last thing you remember at this time, regarding the drive
21 on November 25, 2012?

22 A. The clearest memory that I can recall, and
23 call my own, is stopping in Evanston, Wyoming and
24 re-securing my tarp, checking my load.

25 Q. Ms. Johnson, as you sit here today, are you

1 aware that there were approximately 7 to 12 police
2 officers that were following you, or trying to get you to
3 stop on the evening of November 25, 2012?

4 A. That is what I was told.

5 Q. At no point during your drive were you ever
6 aware there was a police officer behind you; is that fair
7 to say?

8 A. I do not remember.

9 Q. Ms. Sandy Carnahan was previously deposed,
10 and she had discussed how you guys used to watch the show
11 Cops, I believe, and you used to chuckle or laugh about
12 people trying to get away from the police. Do you recall
13 doing that?

14 A. Yes, that's true.

15 Q. As you sit here today, do you believe that
16 you can run or evade police generally?

17 A. No.

18 Q. Prior to November 25, 2012, as part of your
19 training in the military or army, have you ever been
20 trained to drive on circumstances with deflated tires?

21 A. No.

22 Q. Have you ever been trained in regards to
23 ramming or using a vehicle against another vehicle?

24 A. No.

25 Q. Ms. Johnson, prior to November 25, 2012, had

1 A. No, I was happy. I was going home.

2 Q. Do you have any recollection after you were
3 shot, on either the later evening of November 25, 2012,
4 or into the morning of November 26, 2012?

5 A. My next clear memory is waking up on a
6 hospital bed, with a neck brace, not knowing why I was
7 there, or what had happened to me. I was in pain, and I
8 was afraid.

9 (Exhibit No. 28 was marked for identification.)

10 BY MS. KYTE:

11 Q. And Ms. Johnson, I understand you likely have
12 not seen this either, but if you could turn to what's
13 been marked as MCSO 00553, page three of the report. And
14 in the middle of the page it says 'alcohol blood' on the
15 left side. Do you see that? There's a list of different
16 values and says 'alcohol blood'?

17 A. Yes.

18 Q. If you follow that over it says 358, and then
19 there's a (c) and then an H. Do you see that?

20 A. Yes, I do.

21 Q. And if you look below, I'll read something to
22 you. It says, 'Notes'. And the same (c) is there and it
23 states, 'To convert from ORMC blood alcohol units to
24 State of Utah blood alcohol units, one must divide by
25 1,000.' And it says, 'for example ORMC 80 (mg/dL) equals

1 State of Utah legal limit of 0.080', and there's a (g)
2 percentage.)

3 Were you aware that the Utah legal limit for blood
4 alcohol units is 0.080?

5 A. I answered this question earlier. I was not
6 aware of the legal limit of alcohol allowed in a driver's
7 blood. I have not lived here since 2002. At that time,
8 it was not a consideration. I did not drink and drive.

9 Q. Have you ever applied for a driver's license
10 where you've had to answer questions about legal limits
11 for drinking and driving in any state?

12 A. Yes. And I applied for a driver's license
13 for Utah in 1999. At that time, I would like to state
14 again, I am sure I studied the questions to answer them
15 correctly. But since it was not something that I worried
16 about, or was concerned with, I would not remember it.

17 Q. Ms. Johnson, are you aware that based on this
18 calculation in later documents, it was indicated that you
19 had a blood alcohol unit level of 0.358 which is over
20 four times the legal limit in the State of Utah?

21 A. I see that.

22 Q. Were you aware of that before today?

23 A. I knew that the blood alcohol was high.

24 Q. Ms. Johnson, you were transported to Ogden
25 Regional Medical Center by the paramedic and EMTs that

1 A. I don't remember the exact conversation. And
2 if I were reading this as if it were a stranger, I would
3 cry for her, too. I -- I don't recall how that
4 conversation went.

5 Q. Okay. Ms. Johnson, if you look at that first
6 page of the document, and there's some little internal
7 numbers that I'll be referring to. There's a two at the
8 bottom corner. Do you see that? There's a statement
9 there at line 13 and 14 where you say, "**I had every**
10 **intention of trying to kill myself yesterday.**" Do you
11 remember making that statement?

12 A. I do not.

13 Q. In reading it, does it refresh your
14 recollection at all that you made that statement?

15 A. No, and I'm looking at the date that he took
16 the interview, and it was days after. I do not recall
17 saying that at all.

18 Q. So, the date at the top of page two is
19 November 28, 2012. So it was --

20 A. Three days.

21 Q. -- three days after the event. In regards to
22 -- on page three, the small page three at the top,
23 there's a statement and I'm just going to read it and ask
24 you, where you said, "A" which is yourself answering, "**do**
25 **you ever get to the end of your rope?**"

1 to be starting from.

2 Below that line it says, "Suicidal thoughts, active
3 thoughts W plan.' Active thoughts with plan is usually
4 what that refers to.

5 Ms. Johnson, as you sit here today, do you
6 recollect having any suicidal thoughts with an active
7 plan when you were at Ogden Regional Medical Center?

8 A. No.

9 Q. Moving down that same page, it says,
10 'describe current suicidal thoughts/plans/means/intent,
11 "Death by cop" see below.'

12 Do you recall making any statements yourself to any
13 health care evaluators at Ogden Regional Medical Center
14 that you were attempting to commit suicide or death by
15 cop?

16 A. No.

17 Q. If you move down the page, you'll see it says
18 'see next page'. It says 'past suicidal
19 behavior/attempt, actual attempt.' Then it states,
20 'describe past suicidal thoughts/plans/means/intent.
21 Patient has had multiple attempts in the past, OD.
22 Warning signs of acute risk. Threat/talk of self harm,
23 severe anxiety/agitation. Additional warning signs,
24 guilty/grief, hopeless/feeling trapped/hopelessness.'

25 Do you recall indicating any of those feelings, or

1 stating that you'd had several -- or excuse me, multiple
2 suicide attempts in the past to any health care provider
3 at Ogden Regional Medical Center?

4 A. No.

5 Q. If you turn the page, I'm going to 00700 in
6 the bottom right-hand corner. I'm going to read a
7 summary that continues onto the next page, and then ask
8 you some questions, okay? The bottom right-hand corner,
9 and if I didn't mention the activity date at the top of
10 the page, it says 11/29/2012. At the bottom right-hand
11 corner it says, 'summary of clinical presentation.' For
12 the record, I'm going to reference, when I state
13 'patient' it says 'PT'.

14 'Patient is a 41-year old female, admitted to the
15 ICU after being shot in the eye by police following a
16 high speed car chase. Patient has a long history of
17 depression, and suicide attempts, and has never had any
18 treatment for her psychiatric issues. Patient states
19 that she was attempting death by cop when she repeatedly
20 rammed her car into a police vehicle, causing the deputy
21 to shoot the patient in the left eye, through the
22 patient's windshield.' "I was going back to
23 California". "I reached the end of my rope," "How many
24 people get shot in the head and don't succeed?" "I don't
25 want to live, I want to die". Patient has a warrant out

1 for her arrest in Colorado, where she has been living,
2 for punching a state park ranger while intoxicated.
3 Patient is an alcoholic. Last May was the last suicide
4 attempt by OD and alcohol. Patient is currently
5 endorsing active suicidal thoughts and was tearful and
6 appeared hopeless during the assessment. Patient is not
7 safe at a lower level of care.'

8 Ms. Johnson, as you sit here today, do you recall
9 making any of those statements to a health care provider
10 at Ogden Regional Medical Center?

11 A. No.

12 Q. Do you recall making any statements to a
13 health care provider, or otherwise, to the effect of what
14 I've just read, at Ogden Regional Medical Center?

15 A. Anything that I said to them was what had
16 been told to me after I regained consciousness. I do not
17 recall speaking about suicide. I do recall them
18 believing that I attempted to take a police officer's
19 life, and that I was intent on trying to kill a police
20 officer. And I remember them suggesting that perhaps
21 what I was trying to attempt was a suicide by cop.

22 Q. You would agree that at least pursuant to
23 this record, it says 'patient states', which appears to
24 indicate that you said these words to a health care
25 provider at Ogden Regional Medical Center. Would you